AL-14-001-0377

HEIDI HEITKAMP
NORTH DAKOTA
HART SENATE BUILDING 502
WASHINGTON, DC 20510
PH: 202-224-2043
FAX: 202-224-7776
TOLL FREE: 1-800-223-4457
http://www.heitkamp.senate.gov

United States Senate

WASHINGTON, DC 20510

June 3, 2014

COMMITTEES
AGRICULTURE, NUTRITION AND FORESTRY
BANKING, HOUSING AND URBAN AFFAIRS
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
INDIAN AFFAIRS
SMALL BUSINESS AND ENTREPRENEURSHIP

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
U.S. EPA Headquarters – William J. Clinton Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator McCarthy,

We write concerning the petition submitted to the Environmental Protection Agency (EPA) on September 17, 2013, by Tharaldson Ethanol Plant I, located in Casselton, North Dakota, to become fuel eligible for D6 RINS and request your immediate assistance in advancing it.

It is our understanding that further consideration of Tharaldson's petition has been tabled until a review of the petition process for new fuel pathways has been completed. It is our understanding that this decision was based on the conclusion of EPA staff that the permit application by Tharaldson did not meet the high priority criteria laid out in the program announcement. This delay of more than six months poses significant problems for Tharaldson and its partners in achieving low carbon ethanol, Progressive Nutrient Systems (PNS). Tharaldson and PNS are in the final stages of the financing package to advance the project. Without final approval from EPA on the permit application, it will be difficult to move ahead.

We are particularly concerned that Tharaldson was not directly informed the evaluation of the proposed pathway was put on hold until the review of the process is completed. Tharaldson was only made aware of this after our offices made inquiries as to the status of the permit application. More importantly, though, Tharaldson takes issue with the conclusion that their project does not meet the standards of a high priority project. Based on the merits of the petition they believe that the AGREBON process meets two out of the three criteria, as listed below, and the third would not apply in any case.

- Ability to contribute to the cellulosic biofuel mandate.
- Potential for reducing greenhouse gas emissions on a per gallon basis, for example by using feedstocks that likely do not have significant indirect land use change emissions (such as non-food feedstocks).
- Ability to contribute to near-term increases in renewable fuel use. This criterion would include, for example, consideration of the ability of the intended biofuel product to be readily incorporated into the existing fuel distribution network.

The AGREBON process as implemented at Tharaldson would significantly reduce GHG emissions, the second criterion. The rational for the petition is a 22.1 percent reduction in carbon emissions from ethanol gasoline produced at the Tharaldson Plant utilizing AGREBON technology in comparison to petroleum gasoline. The AGREBON process utilizes thin stillage to produce biogas which is then processed into customized urea to meet the nutritional needs for local plant and soil conditions. This closed loop system

BISMARCK OFFICE:
228 FEDERAL BUILDING
220 EAST ROSSER AVENUE
BISMARCK, ND 58501
PH: 701-258-4648
FAX: 701-258-1254

DICKINSON OFFICE:
30 1ST AVENUE WEST
SUITE 202
DICKINSON, ND 58601
PH: 701-225-0974
FAX: 701-225-3287

FARGO OFFICE:
306 FEDERAL BUILDING
657 SECOND AVENUE NORTH
FARGO, ND 58102
PH: 701-232-8030 – 1-800-223-4457
FAX: 701-232-6449

GRAND FORKS OFFICE:
33 S. 3RD ST., SUITE B
GRAND FORKS, ND 58201
PH: 701-775-9601
FAX: 701-746-1990

MINOT OFFICE:
105 FEDERAL BUILDING
100 FIRST STREET S.W.
MINOT, ND 58701
PH: 701-852-0703
FAX: 701-838-8196

is environmentally sound providing fertilizer for the ethanol plant and local farmers from thin stillage, a waste product of the plant.

The reduced carbon footprint resulting from the AGREBON technology was analyzed and documented by a renowned company in the ethanol realm, ERI Solutions. Furthermore, the work was directed and conducted by a world recognized expert. The details of the analysis are well documented in the petition. In summary, the biogas that is created from the thin stillage will create urea, which will offset the plants urea demand. Additionally, some of the bio gas can displace the natural gas that the ethanol plant currently uses and will reduce electricity demand from the grid.

The third criterion is met by producing low carbon ethanol which will be utilized by states that have more stringent requirements for GHG emissions from vehicles such as California. Although not a drop-in fuel, it does qualify in that it will encourage the use of ethanol in states such as California because of its low carbon nature. This will become increasingly important over time as more states adopt low carbon ethanol standards of use.

The remaining customized urea not used by Tharaldson will be utilized by local farmers to produce corn for the plant. The customized fertilizer, with added secondary and micro nutrients, will improve soil and plant productivity without increasing fertilizer use addressing food supply issues at the same time. Although this is not measured in the calculations, this is important given that nitrogen fertilizer is a major contributor to carbon emissions in food production. For instance, Walmart estimates that fertilizer accounts for nearly half of the carbon footprint in its supply chain. This technology is a move toward fossil-energy-independent nitrogen fertilizer.

Because of the positive impacts that adding this technology to the Tharaldson plant will have on the environment, we urge your reconsideration of delaying the evaluation and an expeditious review and approval of the petition.

Sincerely,

Heidi Heitkamp
U.S. Senator

John Hoeven
U.S. Senator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 18 2014

OFFICE OF
AIR AND RADIATION

The Honorable John Hoeven
United States Senate
Washington, D.C. 20510

Dear Senator Hoeven:

Thank you for your letter, dated June 3, 2014, to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the petition process for evaluation of new fuel pathways under the Renewable Fuel Standard (RFS) program. Your letter specifically asked about the status of the petition submitted by Tharaldson Ethanol Plant I ("Tharaldson"), located in Casselton, North Dakota, requesting qualification of their ethanol fuel product for renewable fuel (D-code 6) RINs.

As discussed in your letter, the EPA announced on March 13, 2014, planned improvements to the petition process for new fuel pathways. Given resource limitations, the agency must set priorities with respect to petition reviews, such as focusing on pathways that can contribute to meeting the cellulosic biofuel volumes. On March 19, 2014, we contacted Tharaldson to set up a meeting time to discuss this program announcement and the status of their petition with respect to our prioritization criteria. The meeting occurred via telephone on March 27, 2014.

As part of our discussion with Tharaldson, we explained that an important part of our plans to improve the petition process includes developing a more expedited review process for petitions using previously approved feedstocks and well known production process technologies. This expedited review process will be available for facilities with process configurations that are consistent with our previously evaluated dry mill ethanol plants, and may be applicable to facilities such as Tharaldson's. As discussed in the program announcement, we expect to put these improvements to the petition process into place by this September. We believe these streamlining efforts will benefit the renewable fuels industry as well as the EPA.

We are committed to working with Tharaldson to evaluate their petition as expeditiously as possible, considering our resource limitations and the other petitions pending evaluation. Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL-14-001-1558

JOHN BOOZMAN
ARKANSAS
320 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510
202-224-4843

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
AGRICULTURE, NUTRITION, AND FORESTRY
APPROPRIATIONS
ENVIRONMENT AND PUBLIC WORKS
VETERANS' AFFAIRS

June 26, 2014

Mr. Christopher Grundler, Director
Office of Transportation and Air Quality
U.S. Environmental Protection Agency Fuels Programs Registration
Room 6420, Mail Code 6401A
1200 Pennsylvania Avenue, NW
Washington, DC 20460-0001

Dear Director Grundler,

I am writing to urge your attention toward a petition that was submitted to the EPA regarding approval of cottonseed oil as a renewable fuel feedstock. The National Cottonseed Products Association submitted its formal petition to EPA on December 12, 2011, but the EPA's review of this petition has been lengthy, and the agency has not provided information regarding when the next steps in this review will be complete. I ask for your prompt consideration of this matter.

Cottonseed oil is a feedstock that, in my understanding, is similar in means of production and quality to soybean and canola oil, both of which have been approved as renewable fuel feedstocks. However, the EPA has determined that new modeling would be needed to complete the lifecycle analysis for cottonseed oil. To date, this modeling has not been completed, nor has the EPA provided information regarding when this modeling will be completed. As you can imagine, it is difficult for American farmers and cottonseed mills to plan for the future with this type of uncertainty hanging over them. I understand concerns that this situation is creating an unfair competitive disadvantage for certain farmers, without a clear justification.

I appreciate recent efforts by your staff to keep interested farmers and other stakeholders informed of ongoing modeling; however, I am concerned that you still have not provided a projected date of completion after more than two years. I urge you to expedite this modeling in order that the lifecycle analysis for cottonseed oil can be concluded without further delay. If you have any questions, please contact Jordan Forbes on my staff at 202-224-4843.

Sincerely,

John Boozman

Thanks

John Boozman
U.S. Senator

JB: jf

105 W. Main St.
Suite 104
El Dorado, AR 71730
870-863-4041

1120 Garrison Ave.
Suite B
Fort Smith, AR 72901
479-573-0189

300 S. Church St.
Suite 400
Jonesboro, AR 72401
870-268-6925

1401 W. Capitol Ave.
Room E
Little Rock, AR 72201
501-372-7153

213 W. Monroe
Suite N
Lowell, AR 72745
479-725-0400

1001 Hwy. 62 E.
Suite 11
Mountain Home, AR 72653
870-424-0123

620 E. 22nd St.
Suite 204
Stuttgart, AR 72160
870-672-6941

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 27 2014

OFFICE OF
AIR AND RADIATION

The Honorable John Boozman
United States Senate
Washington, D.C. 20510

Dear Senator Boozman:

Thank you for your letter of June 26, 2014, regarding the petition submitted by the National Cottonseed Products Association (NCPA) to the U.S. Environmental Protection Agency for cottonseed oil to be approved as an eligible feedstock under the Renewable Fuel Standard (RFS) program.

My staff is in receipt of the NCPA petition and is currently conducting our evaluation of renewable fuel derived from cottonseed oil pursuant to the analytical requirements spelled out in the Energy Independence and Security Act of 2007 and the EPA's RFS regulations. A primary component of that evaluation process is an assessment of lifecycle greenhouse gas (GHG) emissions associated with the production and use of biofuels derived from a given feedstock. For a renewable fuel to qualify under the RFS program, that fuel's lifecycle GHG emissions must meet certain statutorily-defined thresholds. The EPA is currently conducting such an analysis for cottonseed oil, along with more than thirty other petitions for a variety of fuel and feedstock pathways.

Significant work, including modeling, has been done on this petition, and we have been in regular contact with NCPA on our analysis. We will continue to engage with them as we move towards publishing a draft analysis for public notice and comment.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL-14-001-1532

United States Senate

WASHINGTON, DC 20510

June 26, 2014

The Honorable Gina McCarthy, Administrator
Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460

Dear Administrator McCarthy:

As leading advocates for expanding the role of domestic biofuels in our transportation fuels market, we are very encouraged by the substantial progress made over the past 15 years. Biofuels now contribute approximately ten percent of our nation's liquid transportation fuels, a truly remarkable achievement given the size of that market. But even more important is that we have the potential to supply significantly more of that market through the commercialization of advanced biofuels derived from a variety of sustainably produced feedstocks. Our colleagues in Congress recognized this opportunity and directed its realization by inclusion of the Renewable Fuel Standard (RFS2) in the Energy Independence and Security Act of 2007. We thank you and the Environmental Protection Agency (EPA) for your role in successfully administering that program.

As we are all aware, the commercialization of advanced biofuels derived from cellulosic feedstocks has not occurred as anticipated, at least in part because the severe economic recession blocked investments in advanced biorefineries. However, during this same period, numerous innovative biofuel feedstock and process technology pathways have emerged, significantly expanding the breadth of options available for producing advanced biofuels. These include not only different crops, but also novel ways of utilizing crop wastes, of combining process technologies, and even of fractioning conventional feedstocks such as corn into different components that can be converted into biofuels using more tailored and efficient processes.

We fully understand and support the EPA's issuance of annual volume requirements for cellulosic biofuels that have been significantly lower than those specified in the RFS2, and recognize this is simply a reflection of the reality of the delays that have occurred in commercialization. At the same time, we believe that the RFS2's intent that advanced biofuels would eventually become our nation's majority biofuel contributor has been made more viable with the breadth of currently emerging biofuel pathways.

So that we can realize the full potential of these emerging biofuel pathways, we believe that EPA needs to analyze them as integrated systems within broad boundaries. Specifically, we strongly urge EPA to analyze biofuels pathways that process different components of a feedstock in

different facilities as integrated systems. This approach of treating biofuel pathway analysis boundaries broadly is not only consistent with the current practice of including GHG emissions associated with international indirect land use changes, it will also provide important energy security, environmental, and agricultural productivity benefits.

One example of such an innovative, emerging pathway is the approach that has been developed by Trestle Energy to produce advanced liquid biofuels, such as ethanol and butanol, and clean-burning solid fuels from "agricultural residues," such as leaves, stems, and husks, which are sustainably harvested from the same feedstock source. Today's high-count planting densities coupled with no-till practices necessitate removal of a fraction of these crop residues for sustainable crop production, thus harvesting and burning these residues at local coal-fired power plants provides important agricultural benefits while also reducing fossil fuel use. This dual use of the same feedstock dramatically reduces lifecycle GHG emissions from the associated liquid biofuel production.

Speedy commercialization of advanced biofuels also depends on expeditious analysis of biofuel pathway applications. We support EPA's current review of its biofuel pathway analysis process in order to accelerate consideration of biofuel pathway applications. However, we also urge EPA to continue to process applications that have already been submitted so that those applicants aren't forced to endure even longer approval periods.

In summary, as the EPA reviews its biofuel pathway evaluation process, we urge the agency to use the opportunity to ensure adoption of an expeditious and broad pathway boundaries analysis. We also urge EPA to give Trestle Energy's application full and prompt consideration because of its potential contributions to advanced biofuel commercialization and associated economic development in Iowa and other Midwestern states.

We appreciate your attention to this issue of importance to biomass feedstock producers as well as our transportation fuels sector. If you have any questions, please contact Eldon Boes in Senator Harkin's office, 202-224-3254.

Sincerely,

Tom Harkin
United States Senate

Tim Johnson
United States Senate

Amy Klobuchar
United States Senate

Heidi Heitkamp
United States Senate

Chuck Grassley
United States Senate

Al Franken
United States Senate

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 3 0 2014

OFFICE OF
AIR AND RADIATION

The Honorable Tom Harkin
United States Senate
Washington, D.C. 20510

Dear Senator Harkin:

Thank you for your letter to U.S. Environmental Protection Agency Administrator Gina McCarthy dated June 26, 2014, regarding the U.S. Renewable Fuel Standard (RFS) program. The Administrator asked that I respond on her behalf.

We appreciate and share your goal of expanding the supply of advanced biofuels in United States transportation fuel. In establishing separate standards for advanced biofuels that grow rapidly over time, Congress made clear that the RFS program was intended to play a key role in driving the development and growth of lower greenhouse gas-emitting advanced biofuels. And in implementing the program, the EPA seeks to achieve this goal. The EPA has already established multiple different advanced biofuel pathways and we continue to work on many others. We have seen growth in advanced biofuel production and consumption over the past several years, and our objective is to ensure such growth continues.

Your letter specifically discussed the plans of Trestle Energy ("Trestle") to produce ethanol and butanol, and to harvest and burn crop residues, including corn and grain sorghum stover, at coal-fired power plants. We have received the petitions submitted by Trestle requesting that the EPA conduct a lifecycle greenhouse gas (GHG) assessment of their new fuel pathways and provide determinations of the fuel categories for which these pathways may be eligible under the RFS program. As we have discussed with Trestle, we have concerns that the emissions reductions for which they would like to receive credit are not associated with the production of the transportation fuel. We have had several meetings with the petitioner, and have discussed alternative approaches that are more consistent with our existing methodology for calculating lifecycle GHG emissions.

As discussed in your letter, the EPA released a program announcement in March describing planned improvements to the petition process for new fuel pathways. Given resource limitations, the agency must set priorities with respect to petition reviews, such as focusing on pathways that can contribute to meeting the cellulosic biofuel volumes. In September, the agency updated the New Fuel Pathways website to include a number of new tools and resources designed to provide information to our stakeholders in a clear, helpful manner. As part of these changes, we also developed an Efficient

Producer petition process that allows corn and sorghum ethanol producers to receive an expedited review if they meet certain criteria. We encourage Trestle to review the information regarding the Efficient Producer process on our website, and consider re-submitting a new petition using the expedited review process if they use an approach that is more consistent with our existing lifecycle methodology.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL-14-001-2081

THE WHITE HOUSE OFFICE
REFERRAL

June 27, 2014

TO: ENVIRONMENTAL PROTECTION AGENCY

ACTION COMMENTS:

ACTION REQUESTED: DIRECT REPLY W/COPY

REFERRAL COMMENTS: WHITE HOUSE WOULD LIKE AN EXPEDITED RESPONSE

DESCRIPTION OF INCOMING:

ID:	1142896
MEDIA:	LETTER
DOCUMENT DATE:	June 05, 2014
TO:	PRESIDENT OBAMA
FROM:	THE HONORABLE HEIDI HEITKAMP UNITED STATES SENATE WASHINGTON, DC 20510
SUBJECT:	REQUESTS A MEETING WITH THE PRESIDENT TO THEIR URGENT CONCERNS ABOUT THE FINAL 2014 RENEWABLE FUEL STANDARDS VOLUME FOR BIODIESEL

COMMENTS: _____

_____

_____

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 562, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500

THE WHITE HOUSE
DOCUMENT MANAGEMENT AND TRACKING WORKSHEET

DATE RECEIVED: June 26, 2014

CASE ID: 1142896

NAME OF CORRESPONDENT: THE HONORABLE HEIDI HEITKAMP

SUBJECT: REQUESTS A MEETING WITH THE PRESIDENT TO THEIR URGENT CONCERNS ABOUT THE FINAL 2014 RENEWABLE FUEL STANDARDS VOLUME FOR BIODIESEL

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	ACTION CODE	ACTION DATE	DISPOSITION TYPE RESPONSE	DISPOSITION CODE	DISPOSITION DATE COMPLETED
LEGISLATIVE AFFAIRS	KATIE FALLON	ORG	06/27/2014			
ACTION COMMENTS:						
✓ ENVIRONMENTAL PROTECTION AGENCY		R	06/27/2014			
ACTION COMMENTS:						
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COMMENTS: 13 ADDL SIGNEES

MEDIA TYPE: LETTER

USER CODE:

ACTION CODES	DISPOSITION		
	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
A = APPROPRIATE ACTION **B** = RESEARCH AND REPORT BACK **D** = DRAFT RESPONSE **I** = INFO COPY/NO ACT NECESSARY **R** = DIRECT REPLY W/ COPY **ORG** = ORIGINATING OFFICE	INITIALS OF SIGNER (W.H. STAFF) **NRN** = NO RESPONSE NEEDED **OTBE** = OVERTAKEN BY EVENTS	**A** = ANSWERED OR ACKNOWLEDGED **C** = CLOSED **X** = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590
SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 562, EEOB.

1142896

United States Senate

WASHINGTON, DC 20510

June 5, 2014

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Obama:

We are writing to request a meeting with you to discuss our urgent concerns about the final 2014 Renewable Fuel Standard (RFS) volume for biodiesel.

We are concerned the Environmental Protection Agency (EPA) is considering a volume level for biodiesel that is far below last year's actual production of nearly 1.8 billion gallons. Such a decision would not only harm economic growth surrounding biodiesel production in our states, but would be a setback in our national efforts to continue boosting U.S. energy security while also reducing greenhouse gas emissions.

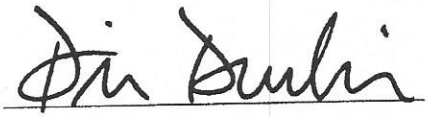
The biodiesel industry supports thousands of jobs in our states, and according to the EPA's own calculations, biodiesel reduces greenhouse gas emissions by 57 percent to 86 percent, making it one of the most effective fuels available for addressing climate change. In fact, it is the most successful EPA-designated "Advanced Biofuel" under the RFS today.

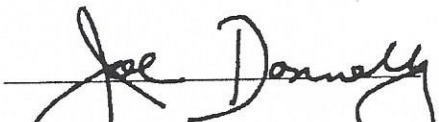
We respectfully request the opportunity to further discuss these concerns before final decisions on this matter are made.

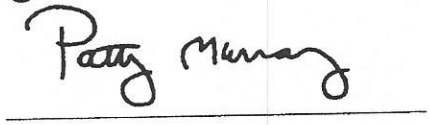
Sincerely,

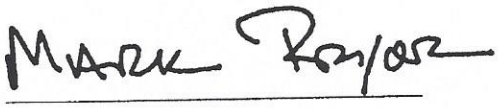
Heidi Heitkamp Al Franken

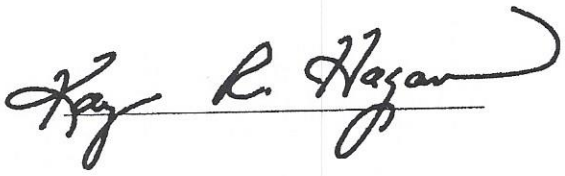
Maria Cantwell Joanne Shaheen











AL-14-001-1401

TOM COLE
4TH DISTRICT, OKLAHOMA

DEPUTY WHIP

COMMITTEE ON APPROPRIATIONS
LEGISLATIVE BRANCH – CHAIRMAN
DEFENSE
INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

COMMITTEE ON RULES

COMMITTEE ON THE BUDGET

Congress of the United States
House of Representatives

PLEASE REPLY TO:

☐ 2458 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-6165

☐ 2424 SPRINGER DRIVE
SUITE 201
NORMAN, OK 73069
(405) 329-6500

☐ 711 SW D AVENUE
SUITE 201
LAWTON, OK 73501
(580) 357-2131

☐ SUGG CLINIC OFFICE BUILDING
100 EAST 13TH STREET, SUITE 213
ADA, OK 74820
(580) 436-5375

June 18, 2014

Mr. Christopher Grundler
Director, Office of Transportation
USEPA Headquarters
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 6401A
Washington, DC 20460

Re: Wynnewood Refining Company, LLC - Petition for Hardship Relief under 40 CFR § 80.1441(e)(2)

Dear Mr. Grundler:

Wynnewood Refining Company, LLC (WRC) is an independent refinery operating in Wynnewood, Oklahoma which is located within my congressional district. This refinery is a major employer that anchors the economy of Wynnewood, and its continued existence is vital to that small town.

It is my understanding that WRC submitted a petition for hardship relief under the renewable fuel standard, pursuant to 40 CFR 80.1441(e)(2), on December 23, 2013. I further understand that, to date, WRC has received no response, nor any indication of when EPA will be responding to its petition, even though the June 30 compliance deadline is imminent.

Both the Clean Air Act and the regulations pertinent to this request require that EPA rule on WRC's petition by March 23, 2014. It is clear that that deadline was not met. With the June 30 deadline around the corner, the Company if faced with the dubious position of having no lead time to react to EPA's decision or develop a compliance strategy for 2013. I request that you make a decision on this position immediately and communicate any and all decisions to WRC as quickly as possible. If you have any questions concerning this request, please contact Stratton Edwards in my office at 202-225-6165.

Sincerely,

Tom Cole
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 2 4 2014

OFFICE OF
AIR AND RADIATION

The Honorable Tom Cole
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Cole:

Thank you for your June 18, 2014, letter to the U.S. Environmental Protection Agency's Office of Transportation and Air Quality Director Christopher Grundler regarding the petition from Wynnewood Refining Company LLC (WRC) for hardship relief under the Renewable Fuel Standard program, pursuant to 40 CFR 80.1441(e)(2).

The EPA issued a letter to WRC on September 5, 2014, in response to the petition, along with a decision document explaining the basis and rationale for EPA's decision. While it is our policy not to share these decisions publicly to protect each company's proprietary information, WRC may have shared that information with you by now, or may be willing to do so upon your request.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Cheryl Mackay in the EPA's Office of Congressional and Intergovernmental Relations at mackay.cheryl@epa.gov or (202) 564-2023.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL-14-001-1652

Congress of the United States
Washington, DC 20515

June 30, 2014

The Honorable Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave
Washington, DC 20460

Dear Administrator McCarthy:

We write to encourage you to seriously consider approving ethanol produced from winter barley as an advanced biofuel. Barley is grown in the Chesapeake Bay region as a winter cover crop. It is planted in the fall after corn or soybeans to use any remaining nutrients from the previous crop, helping to prevent nutrient runoff into the Chesapeake Bay. With an ethanol plant in Hopewell, Virginia, expected to begin operation later this year, a determination that winter barley-to-ethanol is an advanced biofuel would help develop a new domestic fuel source, improve water quality, and generate economic benefits for Maryland's agricultural economy by creating a market for this highly effective winter cover crop.

For nearly two decades, Maryland grain farmers have provided financial support to small grains experts at Virginia Tech to develop barley cultivars with improved biofuel related traits. We understand that spring barley may not meet the standards for advanced biofuels, so we encourage you to consider winter barley separately. Approval of winter barley as an advanced biofuel would help diversify the operation of the Hopewell plant and contribute to its success in producing alternative fuels.

With environmental advantages as a biofuel feedstock and side benefits for Chesapeake Bay revitalization efforts, we believe EPA should have a strong interest in finalizing the status review of winter barley for ethanol.

Sincerely,

STENY H. HOYER
Member of Congress

BARBARA MIKULSKI
United States Senator

BENJAMIN L. CARDIN
United States Senator

ELIJAH CUMMINGS
Member of Congress

CHRIS VAN HOLLEN
Member of Congress

C.A. DUTCH RUPPERSBERGER
Member of Congress

JOHN SARBANES
Member of Congress

DONNA F. EDWARDS
Member of Congress

JOHN DELANEY
Member of Congress

ANDY HARRIS
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 18 2014

OFFICE OF
AIR AND RADIATION

The Honorable Steny H. Hoyer
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Hoyer:

Thank you for your June 30, 2014, letter to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the EPA's evaluation of winter barley as an advanced biofuel under the Renewable Fuel Standard (RFS) program. The Administrator has asked me to respond on her behalf.

Our preliminary evaluation of renewable fuel derived from barley was published in the *Federal Register* on July 23, 2013, as part of a notice of data availability (NODA) which initiated a thirty day period of public notice and comment. We received a number of significant comments that represented a range of differing opinions from industry during this period including comments from Vireol Bio Energy Ltd, the company that owns the Hopewell, VA ethanol plant. We also received comments regarding barley's potential to improve water quality.

We are now in the process of carefully considering the comments received on the barley NODA. Since the close of notice and comment, we have had multiple productive conversations with the owners of the Hopewell plant regarding their unique circumstances. We remain fully engaged with these stakeholders and will continue to consult with them as we move forward towards a final determination. As we have done throughout the petition evaluation process, we will continue to consult with a variety of agricultural experts in the areas of winter barley cultivation, marketing, and renewable fuel production.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL-14-001-1378

United States Senate

WASHINGTON, DC 20510

June 20, 2014

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

We write regarding Montana Advanced Biofuels' Barley Pathway petition under the Renewable Portfolio Standard. The petition for this pathway was originally filed in 2010 and the comment period ended in August of 2013. The creation of such a pathway represents a significant opportunity for jobs in Montana while providing important environmental benefits.

The Montana congressional delegation has repeatedly urged the Environmental Protection Agency (EPA) to complete this pathway, and we write again to urge you to do so. Last July EPA issued a notice of data availability for the release of its analysis of barley. What we hoped would be a matter of several months to finalize the pathway has taken almost a year and counting.

Although we expect careful deliberation of the impacts of a barley pathway, including the different land use considerations for Spring- and Winter-planted barley, we need to move forward. We also impress upon you that the Agricultural Act of 2014 (PL 113-333) contains significant reforms and additional conservation tools that will eliminate or substantially mitigate potential land use impacts. In particular, the law provides strong incentives for farmers to comply with highly erodible land conservation and wetland conservation provisions. Furthermore, similar incentives will prevent conversion of native sod to cropland in states where Spring-planted barley is planted as a main-season crop.

We also understand that EPA is undergoing a reevaluation of how the agency processes these requests. It is critical that the fuel pathway petition process works better for applicants, and we must ensure that any changes made to the process do not further delay the Barley Pathway petition from being acted upon. Can you assure us that the Montana Advanced Biofuels petition will be completed as soon as possible in order to provide certainty for farmers, investors, and job creation in Montana?

We appreciate your attention to this matter and stand ready to assist you if we can be of assistance in bringing this process to a close.

Sincerely,

Senator Jon Tester

Senator John Walsh

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 18 2014

OFFICE OF
AIR AND RADIATION

The Honorable Jon Tester
United States Senate
Washington, D.C. 20510

Dear Senator Tester:

Thank you for your letter of June 20, 2014, to Administrator McCarthy, regarding the petition submitted by Montana Advanced Biofuels (MAB) to the U.S. Environmental Protection Agency for barley to be approved as an eligible feedstock under the Renewable Fuel Standard (RFS) program. The Administrator has asked that I respond on her behalf.

Our preliminary evaluation of renewable fuel derived from barley was published in the *Federal Register* on July 23, 2013, as part of a notice of data availability (NODA), which initiated a thirty-day period of public notice and comment. We received a number of significant comments that represented a range of differing opinions from industry during this period, including comments from MAB. These comments received through our public notice and comment process will ultimately help to inform our final determination.

We are now in the process of carefully considering these and other comments received on the barley NODA. As you noted, the EPA is currently undergoing a process designed to streamline our RFS petition process. Apart from that process, we have continued to move towards a final analysis that addresses the concerns and questions raised during public notice and comment on the barley NODA. We have had multiple productive conversations with MAB regarding their petition. We remain fully engaged with MAB and will continue to consult with them as we move forward towards a final determination. As we have done throughout the petition evaluation process, we will continue to consult with a variety of agricultural experts in the areas of barley cultivation, marketing, and renewable fuel production.

As noted in your letter, one important consideration in our analysis will be the extent to which the reforms and conservation tools enacted through the Agricultural Act of 2014 will prevent the conversion of native sod to cropland in key states where Spring-planted barley is a main-season crop.We are currently consulting with experts at the U.S. Department of Agriculture to understand these provisions better and incorporate them into our analysis. If you or your staff have any further information regarding the structure or implementation of these provisions that you would like to share with us, we would be happy to receive and consider it.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL-14-001-4923

KEN CALVERT
42ND DISTRICT, CALIFORNIA

WASHINGTON OFFICE:
2269 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0542
(202) 225-1986
FAX: (202) 225-2004

DISTRICT OFFICE:
4160 TEMESCAL CANYON ROAD
SUITE 214
CORONA, CA 92883
(951) 277-0042
FAX: (951) 277-0420

UNITED STATES
HOUSE OF REPRESENTATIVES

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(LIAISON TO HOUSE INTELLIGENCE)
ENERGY AND WATER DEVELOPMENT

COMMITTEE ON THE BUDGET

WWW.CALVERT.HOUSE.GOV

August 28, 2014

Mr. Christopher Grundler
Director
Office of Transportation and Air Quality
Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460

Dear Director Grundler,

I am writing in support of the DERA grant application by the South Coast Air Quality Management District to replace a combination of 17 heavy duty diesel drayage trucks and 15 diesel school busses with less polluting natural gas and electric engines.

As you may know, the South Coast Air Basin is among the most polluted areas in the nation, with much of that pollution originating from diesel powered vehicles. The District's project targets captive fleets of goods movement vehicles and school buses serving in, and the surrounding cities of, San Bernardino, Long Beach and Los Angeles, and the neighborhood of Boyle Heights in the City of Los Angeles, which are disproportionately impacted by heavy diesel traffic along the goods movement corridors (I-5, I-10, I-60, I-101, and I-215) and by diesel goods movement activities at Ports of Long Beach and Los Angeles and nearby Burlington Northern Santa Fe and Union Pacific rail yards.

Within the South Coast Air Basin, on-highway heavy heavy-duty diesel trucks (HHDTs) and school buses are a significant source of diesel particulate matter (DPM) and nitrogen oxide (NOx) emissions causing adverse health effects that disproportionately target children, elderly, and sick individuals. HHDTs represent 24% of the on-road diesel vehicles in the Basin and emit more than 99 tons of NOx, 2 tons of DPM, and 5 tons of total hydrocarbon (HC) per day. Since 2000, the California Air Resources Board (CARB) has linked air pollution in California to high annual cases of premature deaths, asthma attacks and other lower respiratory symptoms, school truancy, and missed work days.

The District is seeking to replace 2 of the school busses with zero emissions electric busses and the remaining vehicles with EPA and CARB certified natural gas engines. This project will have a significant impact and will help the District in its efforts to reduce pollution in the South Coast Air Basin. Specifically, the project will eliminate 272 tons NOx, 11 tons DPM, 10 tons HC, 72 tons CO, and 177 tons of greenhouse gas (GHG) emissions per year from the Basin's emissions inventory.

I encourage you to carefully consider the South Coast Air Quality District's application to the DERA program, as this proposed project will have a significant and immediate impact by reducing pollution from diesel vehicles and improving the air quality for the people of San Bernardino, Long Beach and Los Angeles. Please feel free to contact my staff should you have any questions.

Sincerely,

KEN CALVERT
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC - 1 2014

OFFICE OF
AIR AND RADIATION

The Honorable Ken Calvert
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Calvert:

Thank you for your August 28, 2014, letter to the U.S. Environmental Protection Agency regarding your support of the South Coast Air Quality Management District's project application for the Diesel Emissions Reduction Act (DERA) 2014 Funding Opportunity. We appreciate your input and interest in the DERA program.

The request for applications for this grant competition closed in June 2014. We received the South Coast's application before the deadline and it is therefore eligible to be considered for funding. In total, the EPA's Region 9, which includes California, received seven applications. Over $5.8 million in DERA funds were requested by the applicants with available DERA funding totaling $1.43 million. This is in line with previous national competitions for DERA funding; for every dollar available, five dollars are requested.

Region 9 is finalizing its evaluation and plans to announce the winners of the competition within the next month.The EPA is committed to improving air quality in areas of poor air quality, including the South Coast Air Basin. Through the combined efforts of state and local governments, industry, non-profits and the federal government, diesel exhaust can be significantly reduced. We appreciate the steps that South Coast is already taking to reduce emissions for the people of San Bernardino, Long Beach and Los Angeles.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

BOB GOODLATTE
6TH DISTRICT, VIRGINIA

2309 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4606
(202) 225-5431
FAX (202) 225-9681
www.house.gov/goodlatte

CHAIRMAN, HOUSE REPUBLICAN TECHNOLOGY WORKING GROUP

CO-CHAIR, CONGRESSIONAL INTERNET CAUCUS

CONGRESSIONAL INTERNATIONAL ANTI-PIRACY CAUCUS

CONGRESSIONAL CIVIL JUSTICE CAUCUS

Congress of the United States
House of Representatives

August 15, 2014

COMMITTEE ON THE JUDICIARY
CHAIRMAN

COMMITTEE ON AGRICULTURE
VICE CHAIRMAN

SUBCOMMITTEE ON LIVESTOCK, RURAL DEVELOPMENT, AND CREDIT

SUBCOMMITTEE ON DEPARTMENT OPERATIONS, OVERSIGHT, AND NUTRITION

DEPUTY WHIP

Ms. Gina McCarthy
Administrator
US Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator McCarthy:

I write in response to the Agency's' proposed rule on the performance for new residential wood heaters, new residential hydronic heaters and forced-air furnaces, and new residential masonry heaters. I have strong concerns about the cost this proposed rule would have on consumers who utilize these products and on the businesses that manufacture these products.

Virginia, and much of the nation, experienced a record cold winter in 2013, with many relaying on wood based heaters. This rule would dramatically affect the 2.5 million households who use wood as their primary heating source, as well as those who rely on wood as a secondary heating source in the event of power outages. I have great concern that the cost of this new rule would negatively affect consumers of these products.

EPA's analysis has estimated that the annualized cost of this rule would be $15.7 million annually in engineering costs on manufacturers of these products. As acknowledged in the EPA analysis, manufacturers would have to raise their prices, at a minimum, from 4% - 10% to recover these compliance costs.

England Stove Works, Inc., a manufacturer of these products, is located in my Congressional District. I have enclosed a copy of their comments on the proposal in this correspondence. I believe that they raise serious issues the EPA should consider about this proposed rule.

I appreciate your attention to this request. I look forward to working with you to ensure that American have an access to affordable home heating alternatives.

Sincerely,

Bob Goodlatte
Member of Congress

Pellet Stoves
Woodstoves
Multi-Fuel Stoves

P.O. Box 206 Monroe, VA 24574 www.heatredefined.com Phone: (800) 516-3636 Fax: (434) 929-4810

May 2, 2014

Subject: Attention Docket ID No. EPA-HQ-OAR-2009-0734
Comments on the EPA New Source Performance Standards for Hearth Appliances
Under Section 111 (b) of the Clean Air Act

To Whom it May Concern:

My name is Carroll M. Hudson, and I am the President and CEO of England's Stove Works, Inc., located in Monroe, VA.

England's Stove Works was started, literally, as a backyard business by Bob England in 1976, and is still a family-owned small business. Ron England (Bob's son) is the current Chairman of the Board. England's employs approximately 90 people (which varies seasonally) between the office staff, technical support, on-site lab staff, production and shipping staff. England's Stove Works manufactures freestanding and fireplace insert models of woodstoves and pellet stoves, as well as a popular warm air furnace.

Our goal has always been to provide high performance, durable and economical alternative energy heating equipment. We take this responsibility very seriously, as evidenced by our offering of many of the very first EPA certified pellet stoves (when most were exempt).

I am commenting on the proposed EPA New Source Performance Standards (NSPS) for Hearth Appliances, because this issue directly affects the future direction and survival of our company. I am using suggested guidelines for commenting from the U.S. Small Business Administration (SBA) Office of Advocacy, and I will attempt to be concise in following their guidelines so as to address the issues accurately, while being as brief as possible.

The SBA states that mandatory considerations for the Regulatory Flexibility Act (RFA) Compliance include the questions *"What is the potential impact of the rule on small entities?"* and *"Will there be a significant economic impact on a substantial number of small entities?"*

I will attempt to provide answers to this from our company's perspective, but the short answer is that the impact of the NSPS proposal (as it is currently written) on small entities such as England's Stove Works would affect our Research and Development (time and costs) and sales revenue to the degree that it would fundamentally harm the company's financial health and possibly its existence.

My particular knowledge in this industry comes from working at every function within this small business (I have been a part of this company since 1980). Our niche in the industry is unique in

that, while most stove manufacturers sell through distributors and/or specialty retail shops, we sell through the 'DIY' and 'big box' market. Our customers include cooperatives such as ACE Hardware, Do it Best, True Value (and others), as well as The Home Depot and Lowe's Home Improvement. To be successful in this market requires creativity and sacrifice of profit margin, which in turn leaves little room for extra expenses (or failures). It also requires fast movement from product conception through final production and delivery. I will expound on these challenges more, later.

Although we cater to a market of mostly corporate customers, our company remains a small, family-owned business that competes against companies that are larger and better-funded than we are. In addition, our end-use customers are largely middle-class homeowners who cannot afford the higher costs associated with more expensive stoves from a hearth specialty shop. It is important to note that quality and performance are never sacrificed simply because we are in this market. We must run lean and be very creative with our costs to maintain any type of edge, and as I'll explain in these comments, these proposed NSPS changes will jeopardize not only our existing share of the marketplace, but could honestly endanger our company's very existence.

Here, then, are my observations regarding the type and scope of economic impact the proposed NSPS regulations will have on England's Stove Works:

1. England's Stove Works shares a common goal with EPA to make further progress in reducing particulates

First, it should be noted that England's Stove Works agrees with the Hearth, Patio & Barbecue Association's (HPBA) statement that "Both the industry and the EPA share the common goal of making further progress in reducing particulate loadings" (March 19, 2014 Press Release). In fact, every stove model we currently manufacture (with the exception of the warm air furnace) is EPA Certified and approved for sale in WA State. And as I mentioned previously, we offered many of the very first EPA certified pellet stoves, when most at that time were exempt. We take pride in the fact that our stoves give our customers peace of mind that they are burning cleanly and safely.

However, we also agree with a statement from the same HPBA press release that "If the standards are promulgated as written, the increase in cost for new woodstoves will be significant, compelling consumers to keep their old stoves in use. Today, over 6 million free standing stoves in operation are pre-1992, high polluting stoves. The best thing that can happen for cleaner air is for every one of these stoves to get replaced as quickly as possible."

What does this mean for our small business? What should be done?

Obviously, England's would like to see the old stoves "changed out" for cleaner air quality, as well as the honest fact that replacing the older stoves will undoubtedly include sales from our company's line of stove product. I will explain this in more detail later in these comments, but the looming costs that will be passed down to the consumer as a result of the proposed NSPS changes will definitely slow our realization of change-outs to a crawl, or stop them completely.

In our experience with our company's customers, when we offer a sale in the "off" (pre-burning) season to encourage gasket change-outs, for example, we generate sales that we would not normally see, by offering a certain percentage discount and free shipping. Many customers who, in the past, did not have the incentive to change out their stove gaskets early (which contributes to safety and a cleaner burn) now call and ask when our sale will be, and gladly purchase these kits. Incentive in the form of lower prices is a powerful tool, but if we raised the prices of these gasket kits (akin to what will happen to stove prices if the NSPS is promulgated as written), I can guarantee you that we would not see those sales, based on past history with these same customers.

2. The proposed NSPS changes to testing will be very difficult to follow and implement, and will likely not contribute to the goal of cleaner air

    a. The test methods are being revised in a way that will make it difficult, if not impossible, for our small business to comply

One of the main problems that our company will face, right at the offset, is the fact that it is very difficult to ascertain exactly what (and why) EPA is changing in the test methods, but our understanding of the changes is that they are going to be difficult, if not impossible, to follow.

Program Steps: In a nutshell, EPA is proposing a single set of emissions standards for all room heaters (woodstoves, pellet stoves and utility heaters). The standards would be phased in over time, in steps. Step 1 would require a 4.5 g/hr emission limit; if EPA chooses a two-step program, woodstoves would be subject to a 1.3 g/hr limit five years later. If EPA opts for a three-step program, woodstoves would need to be at 2.5 g/hr three years after the effective date, then 1.3 g/hr five years after that. I will comment more on these steps shortly.

Our industry currently has available for use ASTM and CSA methods (developed through an established consensus-based, data-driven process involving EPA, states and our industry) to test our stoves. These are well-recognized voluntary consensus standard-setting bodies, and we understand that EPA participated in the development of those standards (but in some cases has chosen not to adopt these methods), as required by the National Technology Transfer and Advancement Act of 1995 (NTTAA).

Changes to Established Methods: EPA, unfortunately, has proposed revising the woodstove testing method (creating a Method 28R), which omits or modifies important procedures included in ASTM E2780-10 (which is a method that was developed specifically to address issues identified in 25 years of testing under current Subpart AAA). EPA's proposal changes the ASTM established methods in a variety of ways – following are some of the changes:

- EPA specifies a low burn rate of 1.0 kg/hr (replacing the established 1.15 kg/hr) and eliminates an alternative way to specify the low burn rate
- EPA proposes testing at four different burn rates vs. the three in the current ASTM
- EPA's revised method proposes eliminating the 5 minute (or more, depending on firebox size) startup period allowed in the current ASTM method

- EPA proposes prohibiting manufacturers from specifying loading instructions to consumers
- EPA proposes tightening moisture content, fuel weight range and test-initiation coal-bed weight specification

From what we read in the HPBA Comments, these changes are made with no legal basis for changing the existing ASTM Method (which, as was previously stated, reflects 25 years of testing experience and practice). A laboratory coalition states in their NSPS Comments that "ASTM Standards should be used unaltered," as required by NTTAA and OMB 119. Further, the lab coalition maintains that the proposed modifications to ASTM E2780-10 "would increase test costs and frequency of invalid test runs. There is no credible evidence that the modifications proposed would have any significant impact on precision (repeatability or reproducibility) of results."

Changes to Test Algorithm: Even more troubling to our company is that, during the Step 2/Step 3 phases of the implementation (see "Steps," mentioned above), EPA has proposed a unique compliance algorithm that focuses exclusively on burn rate Categories 1 and 4.

Under this new algorithm, we would be required to first test those two burn rate categories and then retest two more times whichever burn rate is worse from an emissions standpoint. This departs from the long-established 'weighted averages' method and again, EPA has not justified these departures (as required by NTTAA). It appears that this is an effort to provide every opportunity for the stove to fail, rather than demonstrate the performance of a stove over its entire useful range of heat outputs.

Basically, after gathering data for years under one test method, we will now be tested under an entirely different method. From a legal standpoint, this apparently violates the Clean Air Act, but practically speaking, it also makes it nearly impossible for a small company such as ours to predict what kind of results we will get from this new procedure. And in the most basic terms, this is simply not fair.

The HPBA has produced a statistical analysis ("MCA Report") in which it demonstrates "conclusively that EPA's proposed approach would place an extraordinary degree of risk on manufacturers and may render compliance with EPA's proposed standards nearly impossible...*By switching to EPA's new compliance algorithm, existing data shows that there will be a profound negative impact on manufacturers' ability to achieve compliance...The risk of failure is so high that it may effectively drive most manufacturers out of the market*" (HPBA Comments).

This, of course, is very troubling. We do not have the mass of data that HPBA (or the EPA) has, but if a data-driven study shows that most manufacturers may be driven out of the market, we have to consider a "reset" of the proposal, if we truly are concerned about the livelihood of small businesses in this industry.

Changes to Test Fuel: Finally, regarding the changes to the test methods, EPA proposes that manufacturers must use both Douglas fir crib wood (the current fuel type for testing) and

cordwood. In Step 1, we may submit the results of either testing for certification, but in Steps 2/3, compliance is based on cordwood alone.

Unfortunately, as in the case above with the algorithm change, there is no emissions data to rely on in regards to testing with cordwood, since crib wood has been the standard testing fuel for many years. This makes predicting the costs of development of new models impossible.

Additionally, even if manufacturers are allowed to submit either fuel (crib or cordwood) for certification during Step 1, *we still must test with both* crib wood and cordwood, which at least doubles our testing costs. This means more development time, more man-hours from our Research and Development department and engineering consultant, and more fuel costs before we even reach the lab; then, during testing, more costs will be added as we test with two fuels. And after Step 1, the proposal dictates that we test with cordwood only, which will turn our R&D procedures upside-down yet again, as we attempt to develop stoves that will certify with a different fuel than we are accustomed to.

For EPA to assume that when we test with cordwood (which in and of itself is a very broad fuel source that can give results that vary greatly) we can achieve the same emission levels as produced by the current EPA method is puzzling. This is simply unfounded and illogical.

The only way I can illustrate this is to consider asking a car company's gasoline engine division to test with gasoline, establish a market with gasoline over the course of nearly 40 years (as we have), and then switch to diesel during testing, and achieve the same or better emission results. This is very hard to fathom, and our challenge would not be much different than this illustration.

What does this mean for our small business?

In our particular situation, true to the spirit of a small business, England's Stove Works employs one full-time lab technician. In addition, we have a couple of folks who help out as needed, and an engineering consultant that we bring in during the more technically-difficult phases of development for any given stove.

In our experience, if we are having issues with one small test, our R&D labor skyrockets, depending on how long it takes us to address the issues and correct the problems identified. If, as the lab coalition predicts in their comments, these changes to Method 28 result in higher "frequency of invalid test runs" (and we are certain that they will), we are looking at a potential of several days to several weeks of study and adjustments on the part of our R&D team, along with emergency manufacturing of the affected stove parts, which can (and has) shut down a large part of our production line. This alone can translate to tens of thousands of dollars of lost production and labor in a very short time.

We would have to hire at least three to four more full-time lab technicians to address all of the changes listed above, along with bringing the consultant in for many extra man-hours to try to figure out how to be in compliance with these major changes; changes that the established voice of our own industry feels may result in very high rates of failure to comply. So, in addition to

doubling or tripling our labor time on each new product, the stark reality is that the new product may not, in the end, pass the testing that would allow it to be sold.

But here's the sobering part: If, after dumping many tens of thousands of dollars (extra) into a project that we have promised one of our chain customers, we don't comply and don't deliver ***on time***, we could very well lose their business. As I said earlier, we have little room for extra expenses *or* failures - for our company, that would be devastating. And as I also mentioned earlier, we deal with a few large customers, and losing just one of the larger customers could affect 25% of our business revenue, or more (and it would, based on over a decade of sales figures). It is not a stretch at this point to agree with the HPBA in saying that such a thing could actually put us out of business.

b. The proposed Step 2 and Step 3 limits will be prohibitively costly to our company, and will achieve minimal, if any, results toward cleaner air

HPBA states in their comments that "Neither the proposed 2.5 g/hr nor the proposed 1.3 g/hr emission limit meets the robust "Best System of Emission Reduction" (BSER) requirements of [Clean Air Act] section 111."

I will leave it to the HPBA to argue the legal principles, but the proposed Step 2 and Step 3 limits, from a practical small business standpoint, are most definitely not cost-effective.

HPBA argues (citing various experts such as Dr. Jay Shelton and engineers Rick Curkeet and Bob Ferguson), that, due to the inherent variability in wood combustion, emissions testing is only so precise by nature. In fact, the Curkeet Ferguson study states that "[T]he current testing process simply cannot consistently distinguish emissions performance differences of less than 3 to 6 grams per hour. The process is certainly capable of distinguishing between good and bad performance, but it cannot reliably distinguish between "good, better and best" performance" (EPA Wood Heater Test Method Variability Study: Analysis of Uncertainty, Repeatability and Reproducibility Based on the EPA Accredited Laboratory Proficiency Test Database (2010), page 19).

England's Stove Works, as I mentioned earlier, truly takes pride in the fact that our freestanding wood and pellet stoves that fall under Subpart AAA already meet and exceed the 4.5 g/hr that Washington State currently requires. We have been on the "cutting edge" of Research and Development in our industry over the years – a particularly notable feat, considering the smaller size of our company.

Even we, however, have no idea at this point how we could meet the Step 2 /3 emission limits of 2.5 g/hr and 1.3 g/hr and still have a marketable stove. The "newer technology" products EPA references do not translate simply into our woodstove designs. Products could not simply "be improved," they will need complete re-design, process changes, factory tooling changes, etc. In our own experience, to make the 1988 NSPS standard limits increased our individual woodstove costs approximately 20 percent. And while we have internally discussed the increased costs for the proposed NSPS standards as they are currently written, the truth is that we have no way to

estimate the increased costs based on all of these issues I've listed, other than concluding that the costs would be "astronomical."

HPBA consulted with NERA (a respected Economic Consulting firm), and determined that EPA had grossly underestimated the 'Stove Sales and Social Costs' (including an average NSPS-related annual cost increase to manufacturers of adjustable burn rate woodstoves from 2014 to 2022 at $4,212,303/yr.) and found that "the cost per ton of the Step 2 standards is 3.8 to 4.5 times as costly as that for Step 1," and that "Imposition of a 2.5 g/hr Step 2 standard *would cause sales to drop off by nearly 20 percent*; at a Step 2 standard of 1.3 g/hr, *sales would be cut by almost a third*" (HPBA Comments, emphasis mine).

Further, HPBA Comments report that EPA derived its final cost-effectiveness estimates based on "a full model design life span and appliance emitting life span of 20 years." In other words, the costs of Research & Development and testing, etc. could, in effect, be spread out and made up over 20 years of selling time.

Unfortunately, this, too, is grossly inaccurate. In England's Stove Works' experience, very few models ever reach the venerable 20-year lifespan mark; in fact, many models sell modestly (or worse) for 3-5 years and then have to be effectively retired, based on demand. This is even more pronounced with the large retail customers that we deal with: if a corporate buyer assumes that a model (particularly in a test market) has failed after a year or two, deliveries dwindle to such a low volume that our only choice is to make room on the production line for more successful models. A 20-year assumed lifespan is not even close, in our situation. To keep up with market demand and competition (particularly in the retail market to which we sell), a life cycle of four to five years is more typical.

What does this mean for our small business?

There are many other implications from the study, but NERA's estimate of 2.5 g/hr and then 1.3 g/hr standards resulting in a loss of sales of 20% and then "almost a third" directly affect the outlook of survival of England's Stove Works. There is no doubt that the extra R&D and associated costs, as discussed above, would push our end prices to the consumer much higher, and this would of course lead to a reduction in yearly sales revenue.

What is more devastating to us is that our end customers, as I've pointed out, are middle-class homeowners who do not have the means to purchase from a higher-end retail specialty shop, which would likely mean that our sales would suffer even more than many of our competitors' would. This will in turn increase our costs per unit – the less units we produce, the higher our per-unit production cost will be. And since we must run our company so lean to be competitive, a 20 or 30+ percent drop in sales would most definitely result in major cutbacks, including large layoffs of company personnel, as a necessity.

One of our biggest selling points as a company is our ability to "change on a dime," since we have two plants and a large production line led by dedicated employees with decades of experience. In 2005, with the untimely advent of Hurricane Katrina, our company was able to "step in" when many other companies could not, and because of that our sales benefited and this

small business was then able to grow our resources from the extra capital, including extra production and warehouse space. If we are forced to have mass layoffs, as a 20-30 (or more) percent dropoff in sales would certainly dictate, one of the best tools of our competitive edge would be taken away, which would most definitely harm our relevance in the marketplace.

What should be done?

As I mentioned earlier, it makes sense that the best way for our industry to ensure cleaner air (with the added benefit of increasing sales for our small business and others) is for us to find a way to give financial incentive to the owners of the more than 6 million pre-1992, high polluting stoves to change out their old stoves for newer, certified models. This is just plain common sense, and is reflected daily in sales around the nation, including the sales that we run as a company. This cannot be effectively accomplished by changing to unproven test methods and ratcheting down the emission standards to levels that would force R&D and other associated costs to skyrocket, assuming the levels can even be met.

A more attainable, reasonable goal that is much more cost-effective to small business would be to go to Step 1 (4.5 g/hr) with the current tests procedures and methods, and allow the industry to develop a database using cordwood so that a cordwood method could be developed later on (i.e. in eight years, when the next revision to the NSPS standards are due). This is a simple solution, I know, but from a small business operator's perspective, simple is often much more effective, and certainly more reliable. Please consider this request, as it is crucial to our company's well-being (and, I'm sure, many others across the industry).

3. Manufacturers need better transition provisions

For woodstoves, EPA has included some transition provisions. *Grandfathering:* Models that are certified under Phase II emissions limits may continue to be manufactured and sold until the expiration date of their existing certification, pending comments. *Sell-through:* EPA also proposes a six-month sell-through period for retailers and distributors – but, unfortunately, this is not nearly long enough.

In addition, EPA does *not* provide for *any* transition under Subpart QQQQ, which includes warm air furnaces. With *no* grandfathering and *no* sell-through, these appliances effectively could not be sold after the effective date.

What does this mean for our small business? What should be done?

Since England's Stove Works sells to the larger retailer chains, a six-month sell-through is ***nowhere near*** long enough to be of any value to our company. Retailers in this niche are very seasonal, and, depending on the time of year, our products may not even be out on their floor during much, if not all, of the sell-through period.

In addition, these retailers literally make their purchasing decisions months ahead of time, so the prospect of a short sell-through could make them very apprehensive as they make their

purchasing decisions in the long period before the effective date, and this could translate into a terrible year for us even before the ruling goes into effect.

Current Subpart AAA regulations provided for a sell-through period of two years, and (at least) this length of time should be maintained, in addition to grandfathering existing certified units. Warm air furnaces should also be grandfathered (i.e. under CSA B415.1-10), and should be allowed a sell-through, as well. The fact that warm air furnaces and other appliances under Subpart QQQQ have no transition period specified leads one to assume that this was overlooked, adding to the confusion that is present in many parts of the NSPS proposal.

Our company will be in ***full development mode*** (which I like to call 'abject scrambling') as the ruling takes effect, working hard to meet whatever the new standards are. It would provide a great (and necessary) help for us as a small business to be able to sell the existing products and not be concerned that there would be issues selling them through. In fact, it would be crucial, as every piece of inventory that is not sold represents a much larger part of our (lost) overall value than it does to larger businesses.

4. Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel Report Issues

EPA convened a Small Business Advocacy Review (SBAR) panel under the SBREFA, which convened August 4, 2010 and produced its final report in August 2011. The panel was concerned that "it was unclear whether adoption of a more stringent standard for new sources would slow the adoption of new, cleaner burning heaters, potentially delaying improvements in air quality" (79 Fed. Reg. at 6,370).

What's worse, HPBA states in its comments (and it is clear from reviewing the proposal) that "Not only has EPA failed to adequately address many of these issues, but EPA's current proposed rule – a proposal materially different from the one considered by the SBAR Panel roughly three years earlier – further aggravates the concerns originally identified, and adds to them in ways the Panel has not been afforded an opportunity to consider…The Panel was never apprised of the possibility that EPA would eliminate the technology-based subcategorization scheme in Subpart AAA, and was not apprised of a further tightened standard, such as the 1.3 g/hr in Step 2 limit proposed for all woodstoves…By so dramatically altering the basic outlines of its proposal – without any additional Panel input – the proposed rule effectively makes a mockery of SBREFA review."

Once again, I will leave the legal haggling to the experts, but it is truly a shame that the SBREFA has not had a chance to look at the actual NSPS final draft, including those changes that I have listed above. I can tell you this, from the point of view of a guy that has to keep a small business making payroll and paying bills: anyone with experience in small business will see that these proposed changes are going to be overly burdensome, and make it very tough to navigate new product to the market in a timely fashion.

As a matter of fact, our existing experience with certifying many wood and pellet stove models with the existing Subpart AAA standard shows that, to get one product to market, no less than one year of Research & Development is required, along with no less than two weeks in a

certified lab, fulfilling the requirements of emission and safety testing. Please keep in mind that this is from the standpoint of a small business, with limited resources, but many other businesses have similar situations within this industry.

With the proposed NSPS changes, we estimate that the time will initially be stretched to two years of R&D minimum, and no less than 3-4 weeks in the (very expensive) certified labs (factored in here is doubled test runs and botched tests needing to be repeated). Following our above-listed recommendation of going to Step 1 (4.5 g/hr) with the current tests procedures and methods (and allowing the industry to simultaneously develop a database using cordwood so that a cordwood method could be utilized later on) will not only ensure that new appliances will be developed that will continually replace dirty, pre-1992 stoves, but will also allow us as small businesses to develop an established practice with cordwood testing that can be used moving forward.

5. Other issues

Permanent Label: EPA has proposed that each model have a permanent label (which is already a requirement of the existing rule). However, the new proposal requires it to be affixed in a readily visible or accessible location so that it can be viewed ***before or after*** installation, which would ruin the aesthetics for the homeowner who wants his stove in his living room, for example.

What should be done? The owner's manual and our website would contain the same information and would be readily available, so this provision should have some flexibility built in, such as stating it should be visible after installation "where feasible." In our experience, homeowners want reasonable heat costs first, but that is closely followed by the desire for comfort and aesthetics.

Marketing Regulation: EPA has requested comments on how to best assure that manufacturers, retailers and online marketers of affected appliances make claims based only on valid certification data and not make exaggerated claims (79 Fed. Reg. at 6,340, 6,341). However, as HPBA points out in the NSPS Comments, this actually falls under the Federal Trade Commission Act, 15 U.S.C. 41, *et seq.*, along with various state statutes.

What should be done? England's Stove Works is very careful to make claims that are accurate and helpful to our customers. Again, when dealing with large retail store chains, we face a different set of circumstances than most other manufacturers – in this case, we must work with the chains to produce literature and marketing material that is acceptable to our retail customers (and their various buyers and departments), and that is accurate and will comply with state and federal laws that are already on the books. We intend to follow all EPA regulations, of course, but marketing materials are already covered by the other entities that we must answer to. EPA should have no oversight on marketing materials in this proposal.

Ancillary Products: EPA has requested comment on whether it "should require CO monitors to help ensure proper operation of the heater and to reduce health and safety concerns…" (79 Fed Reg. at 6,363). EPA also proposes "to require commercial owners (direct distribution

manufacturers and retailers) to provide a moisture meter with the wood heater at the time of sale" (Id., at 6,364).

What should be done? Although England's Stove Works *recommends* the use of CO monitors (and smoke detectors) in our owner's manuals, CO monitors are actually already required in many cases for building safety codes, but generally for *gas appliances*. A malfunctioning gas appliance can produce CO without any signal, but CO spillage from a solid fuel heater will also include smoke and will very likely trigger smoke detectors, which are required almost universally in residential buildings. Also, moisture meters (consumer-grade) actually have very short probe lengths and only help with very wet wood. Owner's manuals and other educational materials already cover how to buy and store seasoned wood properly.

Requiring the purchase of CO monitors and moisture meters adds an additional cost to a customer that, in many cases, is 'stretching his dollar' to purchase a certified stove in the first place. Strongly recommending products (as we do) is one thing, but again, in our experience at least, requiring add-on items can stop a sale for the sake of an item that costs much less, and is not really effective for the reasons stated above.

Summary:

In summary, let me first re-state that England's Stove Works shares the common goal with EPA (and states, and affected interest groups) to make further progress in reducing particulates, we just envision a different (and in our view, more practical) way of doing so.

Homeowners should be given incentives to purchase stoves, particularly when changing out the more than 6 million remaining old, pre-1992 models. Manufacturers, in turn, need all the help we can get to keep costs low and to contribute to the changing out of these old stoves that are responsible for most of the pollutants that are emitted from home heating stoves.

Multiple factors from the proposed NSPS make this difficult, if not impossible, for small businesses such as ours to achieve. Factors such as changes to established test methods, changes to the test algorithm and the overly strict Step 2/3 emission limits combine to make this more than a "challenge" that any company would love to rise to; it makes this a daunting, burdensome obstacle course with no visible finish line. It truly is a "perfect storm" of issues that will likely put many small companies out of commission. And from our small business' standpoint, this is truly a troubling outlook.

So again, I ask that EPA consider the more attainable, reasonable goal of going to Step 1 (4.5 g/hr) with the *current* test procedures and methods. This would be a step in a "cleaner" direction, and would continue to offer consumers clean stoves that can replace the existing pool of dirty ones.

Then, allow this creative, established industry to develop a database using cordwood - so that a cordwood method could be developed and then used later on (i.e. presumably in eight years, when the next revision to the NSPS standards are due), giving a good, realistic idea of emission reductions we can actually achieve. I think all parties will be pleasantly surprised, and small

businesses like ours can breathe a sigh of relief while remaining compliant and simultaneously remaining strong.

Thank you for your time.

Sincerely,

Carroll M. Hudson
President/CEO
England's Stove Works, Inc.

tdh

CONGRESSMAN BOB GOODLATTE

6th District, Virginia
U.S. House of Representatives
Phone: (202) 225-5431

2309 Rayburn Building
Washington, D.C. 20515
Fax: (202) 225-9681

To: EPA

Fax: 202-501-1519

Phone: _____

From:
- ☑ Bob Goodlatte
- ☐ Charlie Keller
- ☐ Carrie Meadows
- ☐ Mary Pritschau
- ☐ Beth Breeding
- ☐ Lindsay Yates
- ☐ Chrissi Lee
- ☐ Angela Inglett
- ☐ Temple Moore
- ☐ _____

Number of pages to follow: 13

Message: _____

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 11 2014

OFFICE OF
AIR AND RADIATION

The Honorable Bob Goodlatte
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Goodlatte:

Thank you for your letter of August 15, 2014, to the U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the proposal to update the regulations governing new residential wood heaters. The Administrator asked that I respond on her behalf.

In your letter, you express concerns regarding the impact of the proposed rule on both manufacturers and those who utilize residential wood heaters. Our proposal updates the new source performance standards for new residential wood heaters which were first promulgated in 1988. They are intended to require all stoves manufactured in the future to meet the standards of today's best performing stoves. These modern stoves will address significant air pollution in many parts of the nation, by substantially reducing the fine particle pollution in the wood smoke emitted by less well designed stoves. This human health issue is a major concern of numerous states, tribes, and local jurisdictions.

Residential wood smoke can increase fine particulate matter emissions to levels that cause significant health concerns. Each year, smoke from wood heaters accounts for hundreds of thousands of tons of fine particles throughout the country, mostly during the winter months. For many counties, residential wood smoke either causes them to exceed the EPA's health-based national ambient air quality standards for fine particles or places them on the cusp of exceeding those standards. Partly because emissions from wood stoves occur near ground level in residential communities across the country, setting these new requirements for cleaner new stoves would result in substantial reductions in exposure and meaningful improvements in public health.

I would like to emphasize that the EPA's proposed regulation would affect only new stoves; existing stoves would not be covered by the rule. As required by Section 111 of the Clean Air Act, the EPA proposes performance standards based on the "best system of emissions reduction" (BSER), considering costs and other impacts. The Clean Air Act also requires the EPA, as we are doing here, to periodically review the standards and update them, as necessary, to reflect current technology.

The EPA's proposed determination is that BSER is already met by a significant portion of the marketplace and is fully demonstrated commercially. Performance has improved considerably since we last set performance standards for new residential wood heaters, and the proposed standards would bring all newly manufactured stoves up to the performance levels that the best systems are already achieving. We expect greater, not less, consumer choice as manufacturers compete in the marketplace to offer the best products.

This proposal provides considerable lead time for manufacturers in transition. As proposed, the NSPS revisions would be implemented in 2 steps. Step 1 for new models would be required 60 days after the revised rule is final. Over 85 percent of the stoves on the market nationwide already meet this level and stoves that have a current EPA certification would be allowed to continue to be manufactured and sold for the full length of their certification, i.e., up to 5 years. Step 2 would be required 5 years after the rule is final. Some models already achieve the Step 2 emission level.

Our proposal was thoroughly reviewed by the Office of Management and Budget, the Small Business Administration, and other government offices prior to proposal. In fact, the EPA designed the proposal with small businesses and consumers very much in mind. We convened a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel to consider the regulatory options that are in the current proposal. The SBREFA process helped inform our proposal, which incorporates numerous recommendations from the panel to help reduce potential impacts on small businesses.

Finally, I want to underscore that the health benefits of these proposed regulations are expected to be much greater than the costs. In our initial analysis, we projected annual health benefits of $1.8 to $4.2 billion, compared to estimated costs of $15.7 million. We also forecast that new heaters would see a price increase of between 2 and 6 percent. The comment period on the proposal recently closed, and we are currently reviewing the extensive comments we received, including those submitted by England Stove Works.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may contact Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at lewis.josh@epa.gov or (202) 564-2095.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL-14-001-5119

BOB GOODLATTE
6TH DISTRICT, VIRGINIA

2309 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4606
(202) 225-5431
FAX (202) 225-9681
www.house.gov/goodlatte

CHAIRMAN, HOUSE REPUBLICAN TECHNOLOGY WORKING GROUP

CO-CHAIR, CONGRESSIONAL INTERNET CAUCUS

CONGRESSIONAL INTERNATIONAL ANTI-PIRACY CAUCUS

CONGRESSIONAL CIVIL JUSTICE CAUCUS

Congress of the United States
House of Representatives

August 15, 2014

COMMITTEE ON THE JUDICIARY
CHAIRMAN

COMMITTEE ON AGRICULTURE
VICE CHAIRMAN

SUBCOMMITTEE ON LIVESTOCK, RURAL DEVELOPMENT, AND CREDIT

SUBCOMMITTEE ON DEPARTMENT OPERATIONS, OVERSIGHT, AND NUTRITION

DEPUTY WHIP

Ms. Gina McCarthy
Administrator
US Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator McCarthy:

I write in response to the Agency's' proposed rule on the performance for new residential wood heaters, new residential hydronic heaters and forced-air furnaces, and new residential masonry heaters. I have strong concerns about the cost this proposed rule would have on consumers who utilize these products and on the businesses that manufacture these products.

Virginia, and much of the nation, experienced a record cold winter in 2013, with many relaying on wood based heaters. This rule would dramatically affect the 2.5 million households who use wood as their primary heating source, as well as those who rely on wood as a secondary heating source in the event of power outages. I have great concern that the cost of this new rule would negatively affect consumers of these products.

EPA's analysis has estimated that the annualized cost of this rule would be $15.7 million annually in engineering costs on manufacturers of these products. As acknowledged in the EPA analysis, manufacturers would have to raise their prices, at a minimum, from 4% - 10% to recover these compliance costs.

England Stove Works, Inc., a manufacturer of these products, is located in my Congressional District. I have enclosed a copy of their comments on the proposal in this correspondence. I believe that they raise serious issues the EPA should consider about this proposed rule.

I appreciate your attention to this request. I look forward to working with you to ensure that American have an access to affordable home heating alternatives.

Sincerely,

Bob Goodlatte

Bob Goodlatte
Member of Congress

Pellet Stoves
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May 2, 2014

Subject: Attention Docket ID No. EPA-HQ-OAR-2009-0734
Comments on the EPA New Source Performance Standards for Hearth Appliances
Under Section 111 (b) of the Clean Air Act

To Whom it May Concern:

My name is Carroll M. Hudson, and I am the President and CEO of England's Stove Works, Inc., located in Monroe, VA.

England's Stove Works was started, literally, as a backyard business by Bob England in 1976, and is still a family-owned small business. Ron England (Bob's son) is the current Chairman of the Board. England's employs approximately 90 people (which varies seasonally) between the office staff, technical support, on-site lab staff, production and shipping staff. England's Stove Works manufactures freestanding and fireplace insert models of woodstoves and pellet stoves, as well as a popular warm air furnace.

Our goal has always been to provide high performance, durable and economical alternative energy heating equipment. We take this responsibility very seriously, as evidenced by our offering of many of the very first EPA certified pellet stoves (when most were exempt).

I am commenting on the proposed EPA New Source Performance Standards (NSPS) for Hearth Appliances, because this issue directly affects the future direction and survival of our company. I am using suggested guidelines for commenting from the U.S. Small Business Administration (SBA) Office of Advocacy, and I will attempt to be concise in following their guidelines so as to address the issues accurately, while being as brief as possible.

The SBA states that mandatory considerations for the Regulatory Flexibility Act (RFA) Compliance include the questions *"What is the potential impact of the rule on small entities?"* and *"Will there be a significant economic impact on a substantial number of small entities?"*

I will attempt to provide answers to this from our company's perspective, but the short answer is that the impact of the NSPS proposal (as it is currently written) on small entities such as England's Stove Works would affect our Research and Development (time and costs) and sales revenue to the degree that it would fundamentally harm the company's financial health and possibly its existence.

My particular knowledge in this industry comes from working at every function within this small business (I have been a part of this company since 1980). Our niche in the industry is unique in

that, while most stove manufacturers sell through distributors and/or specialty retail shops, we sell through the 'DIY' and 'big box' market. Our customers include cooperatives such as ACE Hardware, Do it Best, True Value (and others), as well as The Home Depot and Lowe's Home Improvement. To be successful in this market requires creativity and sacrifice of profit margin, which in turn leaves little room for extra expenses (or failures). It also requires fast movement from product conception through final production and delivery. I will expound on these challenges more, later.

Although we cater to a market of mostly corporate customers, our company remains a small, family-owned business that competes against companies that are larger and better-funded than we are. In addition, our end-use customers are largely middle-class homeowners who cannot afford the higher costs associated with more expensive stoves from a hearth specialty shop. It is important to note that quality and performance are never sacrificed simply because we are in this market. We must run lean and be very creative with our costs to maintain any type of edge, and as I'll explain in these comments, these proposed NSPS changes will jeopardize not only our existing share of the marketplace, but could honestly endanger our company's very existence.

Here, then, are my observations regarding the type and scope of economic impact the proposed NSPS regulations will have on England's Stove Works:

1. England's Stove Works shares a common goal with EPA to make further progress in reducing particulates

First, it should be noted that England's Stove Works agrees with the Hearth, Patio & Barbecue Association's (HPBA) statement that "Both the industry and the EPA share the common goal of making further progress in reducing particulate loadings" (March 19, 2014 Press Release). In fact, every stove model we currently manufacture (with the exception of the warm air furnace) is EPA Certified and approved for sale in WA State. And as I mentioned previously, we offered many of the very first EPA certified pellet stoves, when most at that time were exempt. We take pride in the fact that our stoves give our customers peace of mind that they are burning cleanly and safely.

However, we also agree with a statement from the same HPBA press release that "If the standards are promulgated as written, the increase in cost for new woodstoves will be significant, compelling consumers to keep their old stoves in use. Today, over 6 million free standing stoves in operation are pre-1992, high polluting stoves. The best thing that can happen for cleaner air is for every one of these stoves to get replaced as quickly as possible."

What does this mean for our small business? What should be done?

Obviously, England's would like to see the old stoves "changed out" for cleaner air quality, as well as the honest fact that replacing the older stoves will undoubtedly include sales from our company's line of stove product. I will explain this in more detail later in these comments, but the looming costs that will be passed down to the consumer as a result of the proposed NSPS changes will definitely slow our realization of change-outs to a crawl, or stop them completely.

In our experience with our company's customers, when we offer a sale in the "off" (pre-burning) season to encourage gasket change-outs, for example, we generate sales that we would not normally see, by offering a certain percentage discount and free shipping. Many customers who, in the past, did not have the incentive to change out their stove gaskets early (which contributes to safety and a cleaner burn) now call and ask when our sale will be, and gladly purchase these kits. Incentive in the form of lower prices is a powerful tool, but if we raised the prices of these gasket kits (akin to what will happen to stove prices if the NSPS is promulgated as written), I can guarantee you that we would not see those sales, based on past history with these same customers.

2. The proposed NSPS changes to testing will be very difficult to follow and implement, and will likely not contribute to the goal of cleaner air

    a. The test methods are being revised in a way that will make it difficult, if not impossible, for our small business to comply

One of the main problems that our company will face, right at the offset, is the fact that it is very difficult to ascertain exactly what (and why) EPA is changing in the test methods, but our understanding of the changes is that they are going to be difficult, if not impossible, to follow.

Program Steps: In a nutshell, EPA is proposing a single set of emissions standards for all room heaters (woodstoves, pellet stoves and utility heaters). The standards would be phased in over time, in steps. Step 1 would require a 4.5 g/hr emission limit; if EPA chooses a two-step program, woodstoves would be subject to a 1.3 g/hr limit five years later. If EPA opts for a three-step program, woodstoves would need to be at 2.5 g/hr three years after the effective date, then 1.3 g/hr five years after that. I will comment more on these steps shortly.

Our industry currently has available for use ASTM and CSA methods (developed through an established consensus-based, data-driven process involving EPA, states and our industry) to test our stoves. These are well-recognized voluntary consensus standard-setting bodies, and we understand that EPA participated in the development of those standards (but in some cases has chosen not to adopt these methods), as required by the National Technology Transfer and Advancement Act of 1995 (NTTAA).

Changes to Established Methods: EPA, unfortunately, has proposed revising the woodstove testing method (creating a Method 28R), which omits or modifies important procedures included in ASTM E2780-10 (which is a method that was developed specifically to address issues identified in 25 years of testing under current Subpart AAA). EPA's proposal changes the ASTM established methods in a variety of ways – following are some of the changes:

- EPA specifies a low burn rate of 1.0 kg/hr (replacing the established 1.15 kg/hr) and eliminates an alternative way to specify the low burn rate
- EPA proposes testing at four different burn rates vs. the three in the current ASTM
- EPA's revised method proposes eliminating the 5 minute (or more, depending on firebox size) startup period allowed in the current ASTM method

- EPA proposes prohibiting manufacturers from specifying loading instructions to consumers
- EPA proposes tightening moisture content, fuel weight range and test-initiation coal-bed weight specification

From what we read in the HPBA Comments, these changes are made with no legal basis for changing the existing ASTM Method (which, as was previously stated, reflects 25 years of testing experience and practice). A laboratory coalition states in their NSPS Comments that "ASTM Standards should be used unaltered," as required by NTTAA and OMB 119. Further, the lab coalition maintains that the proposed modifications to ASTM E2780-10 "would increase test costs and frequency of invalid test runs. There is no credible evidence that the modifications proposed would have any significant impact on precision (repeatability or reproducibility) of results."

Changes to Test Algorithm: Even more troubling to our company is that, during the Step 2/Step 3 phases of the implementation (see "Steps," mentioned above), EPA has proposed a unique compliance algorithm that focuses exclusively on burn rate Categories 1 and 4.

Under this new algorithm, we would be required to first test those two burn rate categories and then retest two more times whichever burn rate is worse from an emissions standpoint. This departs from the long-established 'weighted averages' method and again, EPA has not justified these departures (as required by NTTAA). It appears that this is an effort to provide every opportunity for the stove to fail, rather than demonstrate the performance of a stove over its entire useful range of heat outputs.

Basically, after gathering data for years under one test method, we will now be tested under an entirely different method. From a legal standpoint, this apparently violates the Clean Air Act, but practically speaking, it also makes it nearly impossible for a small company such as ours to predict what kind of results we will get from this new procedure. And in the most basic terms, this is simply not fair.

The HPBA has produced a statistical analysis ("MCA Report") in which it demonstrates "conclusively that EPA's proposed approach would place an extraordinary degree of risk on manufacturers and may render compliance with EPA's proposed standards nearly impossible...*By switching to EPA's new compliance algorithm, existing data shows that there will be a profound negative impact on manufacturers' ability to achieve compliance... The risk of failure is so high that it may effectively drive most manufacturers out of the market"* (HPBA Comments).

This, of course, is very troubling. We do not have the mass of data that HPBA (or the EPA) has, but if a data-driven study shows that most manufacturers may be driven out of the market, we have to consider a "reset" of the proposal, if we truly are concerned about the livelihood of small businesses in this industry.

Changes to Test Fuel: Finally, regarding the changes to the test methods, EPA proposes that manufacturers must use both Douglas fir crib wood (the current fuel type for testing) and

cordwood. In Step 1, we may submit the results of either testing for certification, but in Steps 2/3, compliance is based on cordwood alone.

Unfortunately, as in the case above with the algorithm change, there is no emissions data to rely on in regards to testing with cordwood, since crib wood has been the standard testing fuel for many years. This makes predicting the costs of development of new models impossible.

Additionally, even if manufacturers are allowed to submit either fuel (crib or cordwood) for certification during Step 1, *we still must test with both* crib wood and cordwood, which at least doubles our testing costs. This means more development time, more man-hours from our Research and Development department and engineering consultant, and more fuel costs before we even reach the lab; then, during testing, more costs will be added as we test with two fuels. And after Step 1, the proposal dictates that we test with cordwood only, which will turn our R&D procedures upside-down yet again, as we attempt to develop stoves that will certify with a different fuel than we are accustomed to.

For EPA to assume that when we test with cordwood (which in and of itself is a very broad fuel source that can give results that vary greatly) we can achieve the same emission levels as produced by the current EPA method is puzzling. This is simply unfounded and illogical.

The only way I can illustrate this is to consider asking a car company's gasoline engine division to test with gasoline, establish a market with gasoline over the course of nearly 40 years (as we have), and then switch to diesel during testing, and achieve the same or better emission results. This is very hard to fathom, and our challenge would not be much different than this illustration.

What does this mean for our small business?

In our particular situation, true to the spirit of a small business, England's Stove Works employs one full-time lab technician. In addition, we have a couple of folks who help out as needed, and an engineering consultant that we bring in during the more technically-difficult phases of development for any given stove.

In our experience, if we are having issues with one small test, our R&D labor skyrockets, depending on how long it takes us to address the issues and correct the problems identified. If, as the lab coalition predicts in their comments, these changes to Method 28 result in higher "frequency of invalid test runs" (and we are certain that they will), we are looking at a potential of several days to several weeks of study and adjustments on the part of our R&D team, along with emergency manufacturing of the affected stove parts, which can (and has) shut down a large part of our production line. This alone can translate to tens of thousands of dollars of lost production and labor in a very short time.

We would have to hire at least three to four more full-time lab technicians to address all of the changes listed above, along with bringing the consultant in for many extra man-hours to try to figure out how to be in compliance with these major changes; changes that the established voice of our own industry feels may result in very high rates of failure to comply. So, in addition to

doubling or tripling our labor time on each new product, the stark reality is that the new product may not, in the end, pass the testing that would allow it to be sold.

But here's the sobering part: If, after dumping many tens of thousands of dollars (extra) into a project that we have promised one of our chain customers, we don't comply and don't deliver ***on time***, we could very well lose their business. As I said earlier, we have little room for extra expenses *or* failures - for our company, that would be devastating. And as I also mentioned earlier, we deal with a few large customers, and losing just one of the larger customers could affect 25% of our business revenue, or more (and it would, based on over a decade of sales figures). It is not a stretch at this point to agree with the HPBA in saying that such a thing could actually put us out of business.

b. The proposed Step 2 and Step 3 limits will be prohibitively costly to our company, and will achieve minimal, if any, results toward cleaner air

HPBA states in their comments that "Neither the proposed 2.5 g/hr nor the proposed 1.3 g/hr emission limit meets the robust "Best System of Emission Reduction" (BSER) requirements of [Clean Air Act] section 111."

I will leave it to the HPBA to argue the legal principles, but the proposed Step 2 and Step 3 limits, from a practical small business standpoint, are most definitely not cost-effective.

HPBA argues (citing various experts such as Dr. Jay Shelton and engineers Rick Curkeet and Bob Ferguson), that, due to the inherent variability in wood combustion, emissions testing is only so precise by nature. In fact, the Curkeet Ferguson study states that "[T]he current testing process simply cannot consistently distinguish emissions performance differences of less than 3 to 6 grams per hour. The process is certainly capable of distinguishing between good and bad performance, but it cannot reliably distinguish between "good, better and best" performance" (EPA Wood Heater Test Method Variability Study: Analysis of Uncertainty, Repeatability and Reproducibility Based on the EPA Accredited Laboratory Proficiency Test Database (2010), page 19).

England's Stove Works, as I mentioned earlier, truly takes pride in the fact that our freestanding wood and pellet stoves that fall under Subpart AAA already meet and exceed the 4.5 g/hr that Washington State currently requires. We have been on the "cutting edge" of Research and Development in our industry over the years – a particularly notable feat, considering the smaller size of our company.

Even we, however, have no idea at this point how we could meet the Step 2 /3 emission limits of 2.5 g/hr and 1.3 g/hr and still have a marketable stove. The "newer technology" products EPA references do not translate simply into our woodstove designs. Products could not simply "be improved," they will need complete re-design, process changes, factory tooling changes, etc. In our own experience, to make the 1988 NSPS standard limits increased our individual woodstove costs approximately 20 percent. And while we have internally discussed the increased costs for the proposed NSPS standards as they are currently written, the truth is that we have no way to

estimate the increased costs based on all of these issues I've listed, other than concluding that the costs would be "astronomical."

HPBA consulted with NERA (a respected Economic Consulting firm), and determined that EPA had grossly underestimated the 'Stove Sales and Social Costs' (including an average NSPS-related annual cost increase to manufacturers of adjustable burn rate woodstoves from 2014 to 2022 at $4,212,303/yr.) and found that "the cost per ton of the Step 2 standards is 3.8 to 4.5 times as costly as that for Step 1," and that "Imposition of a 2.5 g/hr Step 2 standard *would cause sales to drop off by nearly 20 percent*; at a Step 2 standard of 1.3 g/hr, *sales would be cut by almost a third*" (HPBA Comments, emphasis mine).

Further, HPBA Comments report that EPA derived its final cost-effectiveness estimates based on "a full model design life span and appliance emitting life span of 20 years." In other words, the costs of Research & Development and testing, etc. could, in effect, be spread out and made up over 20 years of selling time.

Unfortunately, this, too, is grossly inaccurate. In England's Stove Works' experience, very few models ever reach the venerable 20-year lifespan mark; in fact, many models sell modestly (or worse) for 3-5 years and then have to be effectively retired, based on demand. This is even more pronounced with the large retail customers that we deal with: if a corporate buyer assumes that a model (particularly in a test market) has failed after a year or two, deliveries dwindle to such a low volume that our only choice is to make room on the production line for more successful models. A 20-year assumed lifespan is not even close, in our situation. To keep up with market demand and competition (particularly in the retail market to which we sell), a life cycle of four to five years is more typical.

What does this mean for our small business?

There are many other implications from the study, but NERA's estimate of 2.5 g/hr and then 1.3 g/hr standards resulting in a loss of sales of 20% and then "almost a third" directly affect the outlook of survival of England's Stove Works. There is no doubt that the extra R&D and associated costs, as discussed above, would push our end prices to the consumer much higher, and this would of course lead to a reduction in yearly sales revenue.

What is more devastating to us is that our end customers, as I've pointed out, are middle-class homeowners who do not have the means to purchase from a higher-end retail specialty shop, which would likely mean that our sales would suffer even more than many of our competitors' would. This will in turn increase our costs per unit – the less units we produce, the higher our per-unit production cost will be. And since we must run our company so lean to be competitive, a 20 or 30+ percent drop in sales would most definitely result in major cutbacks, including large layoffs of company personnel, as a necessity.

One of our biggest selling points as a company is our ability to "change on a dime," since we have two plants and a large production line led by dedicated employees with decades of experience. In 2005, with the untimely advent of Hurricane Katrina, our company was able to "step in" when many other companies could not, and because of that our sales benefited and this

small business was then able to grow our resources from the extra capital, including extra production and warehouse space. If we are forced to have mass layoffs, as a 20-30 (or more) percent dropoff in sales would certainly dictate, one of the best tools of our competitive edge would be taken away, which would most definitely harm our relevance in the marketplace.

What should be done?

As I mentioned earlier, it makes sense that the best way for our industry to ensure cleaner air (with the added benefit of increasing sales for our small business and others) is for us to find a way to give financial incentive to the owners of the more than 6 million pre-1992, high polluting stoves to change out their old stoves for newer, certified models. This is just plain common sense, and is reflected daily in sales around the nation, including the sales that we run as a company. This cannot be effectively accomplished by changing to unproven test methods and ratcheting down the emission standards to levels that would force R&D and other associated costs to skyrocket, assuming the levels can even be met.

A more attainable, reasonable goal that is much more cost-effective to small business would be to go to Step 1 (4.5 g/hr) with the current tests procedures and methods, and allow the industry to develop a database using cordwood so that a cordwood method could be developed later on (i.e. in eight years, when the next revision to the NSPS standards are due). This is a simple solution, I know, but from a small business operator's perspective, simple is often much more effective, and certainly more reliable. Please consider this request, as it is crucial to our company's well-being (and, I'm sure, many others across the industry).

3. Manufacturers need better transition provisions

For woodstoves, EPA has included some transition provisions. *Grandfathering:* Models that are certified under Phase II emissions limits may continue to be manufactured and sold until the expiration date of their existing certification, pending comments. *Sell-through:* EPA also proposes a six-month sell-through period for retailers and distributors – but, unfortunately, this is not nearly long enough.

In addition, EPA does *not* provide for ***any*** transition under Subpart QQQQ, which includes warm air furnaces. With *no* grandfathering and *no* sell-through, these appliances effectively could not be sold after the effective date.

What does this mean for our small business? What should be done?

Since England's Stove Works sells to the larger retailer chains, a six-month sell-through is ***nowhere near*** long enough to be of any value to our company. Retailers in this niche are very seasonal, and, depending on the time of year, our products may not even be out on their floor during much, if not all, of the sell-through period.

In addition, these retailers literally make their purchasing decisions months ahead of time, so the prospect of a short sell-through could make them very apprehensive as they make their

purchasing decisions in the long period before the effective date, and this could translate into a terrible year for us even **before** the ruling goes into effect.

Current Subpart AAA regulations provided for a sell-through period of two years, and (at least) this length of time should be maintained, in addition to grandfathering existing certified units. Warm air furnaces should also be grandfathered (i.e. under CSA B415.1-10), and should be allowed a sell-through, as well. The fact that warm air furnaces and other appliances under Subpart QQQQ have no transition period specified leads one to assume that this was overlooked, adding to the confusion that is present in many parts of the NSPS proposal.

Our company will be in ***full development mode*** (which I like to call 'abject scrambling') as the ruling takes effect, working hard to meet whatever the new standards are. It would provide a great (and necessary) help for us as a small business to be able to sell the existing products and not be concerned that there would be issues selling them through. In fact, it would be crucial, as every piece of inventory that is not sold represents a much larger part of our (lost) overall value than it does to larger businesses.

4. Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel Report Issues

EPA convened a Small Business Advocacy Review (SBAR) panel under the SBREFA, which convened August 4, 2010 and produced its final report in August 2011. The panel was concerned that "it was unclear whether adoption of a more stringent standard for new sources would slow the adoption of new, cleaner burning heaters, potentially delaying improvements in air quality" (79 Fed. Reg. at 6,370).

What's worse, HPBA states in its comments (and it is clear from reviewing the proposal) that "Not only has EPA failed to adequately address many of these issues, but EPA's current proposed rule – a proposal materially different from the one considered by the SBAR Panel roughly three years earlier – further aggravates the concerns originally identified, and adds to them in ways the Panel has not been afforded an opportunity to consider…The Panel was never apprised of the possibility that EPA would eliminate the technology-based subcategorization scheme in Subpart AAA, and was not apprised of a further tightened standard, such as the 1.3 g/hr in Step 2 limit proposed for all woodstoves…By so dramatically altering the basic outlines of its proposal – without any additional Panel input – the proposed rule effectively makes a mockery of SBREFA review."

Once again, I will leave the legal haggling to the experts, but it is truly a shame that the SBREFA has not had a chance to look at the actual NSPS final draft, including those changes that I have listed above. I can tell you this, from the point of view of a guy that has to keep a small business making payroll and paying bills: anyone with experience in small business will see that these proposed changes are going to be overly burdensome, and make it very tough to navigate new product to the market in a timely fashion.

As a matter of fact, our existing experience with certifying many wood and pellet stove models with the existing Subpart AAA standard shows that, to get one product to market, no less than one year of Research & Development is required, along with no less than two weeks in a

certified lab, fulfilling the requirements of emission and safety testing. Please keep in mind that this is from the standpoint of a small business, with limited resources, but many other businesses have similar situations within this industry.

With the proposed NSPS changes, we estimate that the time will initially be stretched to two years of R&D minimum, and no less than 3-4 weeks in the (very expensive) certified labs (factored in here is doubled test runs and botched tests needing to be repeated). Following our above-listed recommendation of going to Step 1 (4.5 g/hr) with the current tests procedures and methods (and allowing the industry to simultaneously develop a database using cordwood so that a cordwood method could be utilized later on) will not only ensure that new appliances will be developed that will continually replace dirty, pre-1992 stoves, but will also allow us as small businesses to develop an established practice with cordwood testing that can be used moving forward.

5. Other issues

Permanent Label: EPA has proposed that each model have a permanent label (which is already a requirement of the existing rule). However, the new proposal requires it to be affixed in a readily visible or accessible location so that it can be viewed ***before or after*** installation, which would ruin the aesthetics for the homeowner who wants his stove in his living room, for example.

What should be done? The owner's manual and our website would contain the same information and would be readily available, so this provision should have some flexibility built in, such as stating it should be visible after installation "where feasible." In our experience, homeowners want reasonable heat costs first, but that is closely followed by the desire for comfort and aesthetics.

Marketing Regulation: EPA has requested comments on how to best assure that manufacturers, retailers and online marketers of affected appliances make claims based only on valid certification data and not make exaggerated claims (79 Fed. Reg. at 6,340, 6,341). However, as HPBA points out in the NSPS Comments, this actually falls under the Federal Trade Commission Act, 15 U.S.C. 41, *et seq.*, along with various state statutes.

What should be done? England's Stove Works is very careful to make claims that are accurate and helpful to our customers. Again, when dealing with large retail store chains, we face a different set of circumstances than most other manufacturers – in this case, we must work with the chains to produce literature and marketing material that is acceptable to our retail customers (and their various buyers and departments), and that is accurate and will comply with state and federal laws that are already on the books. We intend to follow all EPA regulations, of course, but marketing materials are already covered by the other entities that we must answer to. EPA should have no oversight on marketing materials in this proposal.

Ancillary Products: EPA has requested comment on whether it "should require CO monitors to help ensure proper operation of the heater and to reduce health and safety concerns..." (79 Fed Reg. at 6,363). EPA also proposes "to require commercial owners (direct distribution

manufacturers and retailers) to provide a moisture meter with the wood heater at the time of sale" (Id., at 6,364).

What should be done? Although England's Stove Works *recommends* the use of CO monitors (and smoke detectors) in our owner's manuals, CO monitors are actually already required in many cases for building safety codes, but generally for *gas appliances*. A malfunctioning gas appliance can produce CO without any signal, but CO spillage from a solid fuel heater will also include smoke and will very likely trigger smoke detectors, which are required almost universally in residential buildings. Also, moisture meters (consumer-grade) actually have very short probe lengths and only help with very wet wood. Owner's manuals and other educational materials already cover how to buy and store seasoned wood properly.

Requiring the purchase of CO monitors and moisture meters adds an additional cost to a customer that, in many cases, is 'stretching his dollar' to purchase a certified stove in the first place. Strongly recommending products (as we do) is one thing, but again, in our experience at least, requiring add-on items can stop a sale for the sake of an item that costs much less, and is not really effective for the reasons stated above.

Summary:

In summary, let me first re-state that England's Stove Works shares the common goal with EPA (and states, and affected interest groups) to make further progress in reducing particulates, we just envision a different (and in our view, more practical) way of doing so.

Homeowners should be given incentives to purchase stoves, particularly when changing out the more than 6 million remaining old, pre-1992 models. Manufacturers, in turn, need all the help we can get to keep costs low and to contribute to the changing out of these old stoves that are responsible for most of the pollutants that are emitted from home heating stoves.

Multiple factors from the proposed NSPS make this difficult, if not impossible, for small businesses such as ours to achieve. Factors such as changes to established test methods, changes to the test algorithm and the overly strict Step 2/3 emission limits combine to make this more than a "challenge" that any company would love to rise to; it makes this a daunting, burdensome obstacle course with no visible finish line. It truly is a "perfect storm" of issues that will likely put many small companies out of commission. And from our small business' standpoint, this is truly a troubling outlook.

So again, I ask that EPA consider the more attainable, reasonable goal of going to Step 1 (4.5 g/hr) with the *current* test procedures and methods. This would be a step in a "cleaner" direction, and would continue to offer consumers clean stoves that can replace the existing pool of dirty ones.

Then, allow this creative, established industry to develop a database using cordwood - so that a cordwood method could be developed and then used later on (i.e. presumably in eight years, when the next revision to the NSPS standards are due), giving a good, realistic idea of emission reductions we can actually achieve. I think all parties will be pleasantly surprised, and small

businesses like ours can breathe a sigh of relief while remaining compliant and simultaneously remaining strong.

Thank you for your time.

Sincerely,

Carroll M. Hudson
President/CEO
England's Stove Works, Inc.

tdh

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 11 2014

OFFICE OF
AIR AND RADIATION

The Honorable Bob Goodlatte
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Goodlatte:

Thank you for your letter of August 15, 2014, to the U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the proposal to update the regulations governing new residential wood heaters. The Administrator asked that I respond on her behalf.

In your letter, you express concerns regarding the impact of the proposed rule on both manufacturers and those who utilize residential wood heaters. Our proposal updates the new source performance standards for new residential wood heaters which were first promulgated in 1988. They are intended to require all stoves manufactured in the future to meet the standards of today's best performing stoves. These modern stoves will address significant air pollution in many parts of the nation, by substantially reducing the fine particle pollution in the wood smoke emitted by less well designed stoves. This human health issue is a major concern of numerous states, tribes, and local jurisdictions.

Residential wood smoke can increase fine particulate matter emissions to levels that cause significant health concerns. Each year, smoke from wood heaters accounts for hundreds of thousands of tons of fine particles throughout the country, mostly during the winter months. For many counties, residential wood smoke either causes them to exceed the EPA's health-based national ambient air quality standards for fine particles or places them on the cusp of exceeding those standards. Partly because emissions from wood stoves occur near ground level in residential communities across the country, setting these new requirements for cleaner new stoves would result in substantial reductions in exposure and meaningful improvements in public health.

I would like to emphasize that the EPA's proposed regulation would affect only new stoves; existing stoves would not be covered by the rule. As required by Section 111 of the Clean Air Act, the EPA proposes performance standards based on the "best system of emissions reduction" (BSER), considering costs and other impacts. The Clean Air Act also requires the EPA, as we are doing here, to periodically review the standards and update them, as necessary, to reflect current technology.

The EPA's proposed determination is that BSER is already met by a significant portion of the marketplace and is fully demonstrated commercially. Performance has improved considerably since we last set performance standards for new residential wood heaters, and the proposed standards would bring all newly manufactured stoves up to the performance levels that the best systems are already achieving. We expect greater, not less, consumer choice as manufacturers compete in the marketplace to offer the best products.

This proposal provides considerable lead time for manufacturers in transition. As proposed, the NSPS revisions would be implemented in 2 steps. Step 1 for new models would be required 60 days after the revised rule is final. Over 85 percent of the stoves on the market nationwide already meet this level and stoves that have a current EPA certification would be allowed to continue to be manufactured and sold for the full length of their certification, i.e., up to 5 years. Step 2 would be required 5 years after the rule is final. Some models already achieve the Step 2 emission level.

Our proposal was thoroughly reviewed by the Office of Management and Budget, the Small Business Administration, and other government offices prior to proposal. In fact, the EPA designed the proposal with small businesses and consumers very much in mind. We convened a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel to consider the regulatory options that are in the current proposal. The SBREFA process helped inform our proposal, which incorporates numerous recommendations from the panel to help reduce potential impacts on small businesses.

Finally, I want to underscore that the health benefits of these proposed regulations are expected to be much greater than the costs. In our initial analysis, we projected annual health benefits of $1.8 to $4.2 billion, compared to estimated costs of $15.7 million. We also forecast that new heaters would see a price increase of between 2 and 6 percent. The comment period on the proposal recently closed, and we are currently reviewing the extensive comments we received, including those submitted by England Stove Works.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may contact Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at lewis.josh@epa.gov or (202) 564-2095.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL-14-001-4401

PETER J. VISCLOSKY
1ST DISTRICT, INDIANA

COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEES:
RANKING MEMBER, DEFENSE
ENERGY AND WATER DEVELOPMENT

CONGRESSIONAL STEEL CAUCUS
VICE CHAIRMAN

U.S. HOUSE LAW ENFORCEMENT CAUCUS

Congress of the United States
House of Representatives
Washington, DC 20515-1401

2256 RAYBURN BUILDING
WASHINGTON, DC 20515-1401
(202) 225-2461

7895 BROADWAY, SUITE A
MERRILLVILLE, IN 46410
(219) 795-1844

Call Toll Free
1 888 423 PETE
(1 888 423-7383)

INTERNET:
http://visclosky.house.gov

August 21, 2014

The Honorable Gina McCarthy
Administrator
Enivronmental Protection Agency
1200 Pennsylvania Avenue Northwest
Washington, D.C. 20460

Dear Administrator McCarthy:

I write on behalf of exempt6, a resident of Indiana's First Congressional District.

exempt6 has contacted me to express his concerns regarding the potential practice of chemical spraying conducted by planes in Northwest Indiana. Specifically, he would like to know if the Environmental Protection Agency (EPA) is aware of planes spraying chemicals into the air while in flight, including in Northwest Indiana. If planes are spraying chemicals while in flight, exempt6 would like to know if those chemicals pose an environmental or health threat and if it is possible for the EPA to test the air in Northwest Indiana for chemicals. I would appreciate your addressing his concerns.

Thank you in advance for your serious consideration of this matter. Do not hesitate to let me know if you have any other questions or need additional information.

Sincerely,

Peter J. Visclosky
Member of Congress

PJV:ma
Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 16 2014

OFFICE OF
AIR AND RADIATION

The Honorable Peter J. Visclosky
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Visclosky:

Thank you for your letter of August 21, 2014, to the U.S. Environmental Protection Agency on behalf of your constituent, Exempt 6, expressing his concerns regarding the potential practice of chemical spraying conducted by planes in Northwest Indiana. The Administrator asked that I respond on her behalf.

The EPA is not aware of any deliberate actions to release chemical or biological agents into the atmosphere. Exempt 6 is likely observing contrails, which are line-shaped clouds or "condensation trails" composed of ice particles that are visible behind jet aircraft engines under certain atmospheric conditions.

Jet aircraft engines operating at high altitudes emit tiny combustion-related particles, and water vapor present in the ambient atmosphere reacts with these particles to form contrails. Contrails are about 99 percent frozen water vapor and less than one percent combustion-related particles. These contrails spread due to atmospheric turbulence and sometimes join with other contrails and expand into large, natural-looking clouds that can cover large areas of the sky. Persistent contrails can last for hours while growing to several kilometers in width and 200 to 400 meters in height.

Aircraft emission standards for gas turbine engines that power civil aircraft have been in place for about 30 years. The EPA sets the emission standards for the engines, and the Federal Aviation Administration enforces the standards. Emission standards apply to essentially all commercial aircraft and address smoke, unburned hydrocarbons, carbon monoxide, and oxides of nitrogen (NOx) for the landing and takeoff cycle. Enclosed are documents entitled "*Aircraft Contrails Factsheet*" and "*Contrails Facts.*" A 1999 report entitled, "*Aviation and the Global Atmosphere*," can be accessed at www.cambridge.org. Additional information about these documents is also enclosed.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Cheryl Mackay in the EPA's Office of Congressional and Intergovernmental Relations at mackay.cheryl@epa.gov or (202) 564-2023.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

Enclosures